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EXAMINER	
NGUYEN, DUSTIN	
ART UNIT	**PAPER NUMBER**
2154	8

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/644,764	Applicant(s) WELSH, DEBORAH TATE	
	Examiner Dustin Nguyen	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 February 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *8-11,14-16,23,24 and 26-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8-11,14-16,23,24 and 26-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 8-11, 14-16, 23, 24, 26-30 are presented for consideration.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 8-11, 14-16, 23, 24, 26-30 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 6-20 of copending Application No. 09/483,172 [hereinafter '172 application]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

As per claim, the '172 application contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A computer program stored on a computer-readable memory device for operating a computer to aid in locating lost pets, the computer program comprising:

a code segment for receiving ...;

a code segment for storing ...;

a code segment for permitting ...;

a code segment for comparing ...; and

a code segment for providing ....

The claim of '172 application do not specifically state the first side and the second side of the rabies tag as described in the claim 1 of instant application but it would have been obvious to a person skill in the art to recognize that the two claims are similar because first tag and second tag of the '172 application provides same purposes and functionality as claimed in the instant application.

As per claims 8-10, 14-16, 23, 24, 26-30, they contain similar subject matter as claims 6-20 of '172 application. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claim 28 is rejected under 35 U.S.C. 102(e) as being anticipated by Shorrock et al. [US Patent No 6,283,065].

5. As per claim 28, Shorrock discloses a rabies tag comprising a body including a first side and a second side [i.e. modes] [col 3, lines 64-col 4, lines 6], the first side including rabies information [col 1, lines 21-26], and the second side including information for accessing a host computer on a communications network in order to enter the rabies tag information relating to the pet [col 7, lines 60-col 8, lines 24].

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 8-11, 14-16, 23, 24, 26, 27, 29, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shorrock et al. [US Patent No 6,283,065], in view of Christian [US Patent No 6,502,060].

8. As per claim 11, Shorrock discloses the invention substantially as claimed including a computer program stored on a computer-readable memory device for operating a computer to aid in locating lost pets, the computer program comprising:

a code segment for receiving rabies information corresponding to the rabies information on a first side of a rabies tag issued to a pet [col 3, lines 64-col 4, lines 20];

a code segment for storing the rabies information and the contact information in computer-readable memory accessible by a host computer [col 8, lines 1-14];

a code segment for permitting a person who finds the pet to access the host computer via a communication network from information on a second side of the rabies tag issued to the pet, and to enter information from the rabies tag relating to the lost pet [col 7, lines 60-col 8, lines 24];

a code segment for comparing the information from the rabies tag entered by the person who found the pet to the rabies tag information for the pet in an attempt to find a match [col 4, lines 7-21; and col 13, lines 13-37]; and

a code segment for providing the person who found the lost pet with the contact information for the owner of the lost pet, if a match is found [i.e. contact and reunite] [col 13, lines 31-37].

Shorrock does not specifically disclose

contact information for the owner of the pet to which the rabies tag was issued.

Christian discloses

contact information for the owner of the pet to which the rabies tag was issued [Abstract; and col 10, lines 1-9].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Shorrock and Christian because Christian's teaching would allow finder to directly contact pet's owner in a more efficient manner.

9. As per claim 8, Shorrock discloses the communication network includes the Internet [col 8, lines 5-9].

10. As per claim 9, Shorrock discloses wherein the rabies information is selected from the group consisting of a veterinarian's name for the pet, the veterinarian's phone number, a licensing agency, a number for the pet, and a year that the pet was vaccinated for rabies [i.e. medical record] [col 1, lines 14-26; and col 4, lines 21-31].

11. As per claim 10, Shorrock does not specifically disclose wherein the contact information is selected from the group consisting of the pet owner's name, the pet owner's address, the pet owner's telephone number, a name of a veterinarian for the pet, the veterinarian's address, and the veterinarian's phone number. Christian discloses wherein the contact information is selected from the group consisting of the pet owner's name, the pet owner's address, the pet owner's telephone number, a name of a veterinarian for the pet, the veterinarian's address, and the veterinarian's phone number [col 10, lines 66-col 10, lines 9]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Shorrock and Christian because Christian's teaching would allow finder to immediately contact pet's owner or veterinarian for necessary medical record instantly.

12. As per claims 14 and 15 they are rejected for similar reasons as stated above in claims 9 and 10.

13. As per claim 16, it is apparatus claimed of claim 11, it is rejected for similar reasons as stated above in claim 11.

14. As per claims 23 and 24, they are rejected for similar reasons as stated above in claims 9 and 10.

15. As per claim 26, it is method claimed of claim 11, it is rejected for similar reasons as stated above in claim 11.

16. As per claim 27, Shorrock discloses wherein the information for accessing a host computer includes, an address for the host computer [col 8, lines 14-16].

17. As per claim 29, it is rejected for similar reasons as stated above in claim 29.

18. As per claim 30, it is rejected for similar reasons as stated above in claim 14.

19. Applicant's arguments with respect to claims 8-11, 14-16, 23, 24, 26-30 have been considered but are moot in view of the new ground(s) of rejection.

20. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on Monday – Friday (8:00 – 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (703) 306-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directly to the receptionist whose telephone number is (703) 305-3900.

Dustin Nguyen

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100